

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS

GALVESTON DIVISION

KENNETH LYNCH, #687452

V.

R. MORRIS, CO-III

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CIVIL ACTION NO. G-04-031

**PARTIAL ORDER OF DISMISSAL**

Before the Court for its Order of Acceptance is a Report and Recommendation of the United States Magistrate Judge, entered on April 26, 2005. Plaintiff has filed objections, all of which were correctly addressed in the Report and Recommendation and which do not require additional comment.

After *de novo* review pursuant to 28 U.S.C. §636 (b)(1)(C), this Court is of the opinion that the Report and Recommendation of the Magistrate Judge should be, and it is hereby, **ACCEPTED** in its entirety and incorporated by reference herein. It is **ORDERED** that the following claims are **DISMISSED** with prejudice for failure to state a claim for which relief can be granted:

1. all claims of deliberate indifference to serious medical needs;
2. all due process claims related to unjust disciplinary proceedings;
3. all failure to protect claims.


It is further **ORDERED** that Plaintiff's claim for damages for an unjust disciplinary proceeding is **DISMISSED** with prejudice as frivolous until such time as Plaintiff satisfies the conditions set forth in *Heck*.

It is further **ORDERED** that claims for injunctive relief against UTMB are **DISMISSED** for failure to state a claim for which relief can be granted.

It is further **ORDERED** that Defendants TDCJ-ID, UTMB, Holmes, Trinci, Leal, Smith and Adams are **DISMISSED** with prejudice.

This matter shall be returned to the Magistrate Judge for further screening of excessive use of force claims.

**DONE** at Galveston, Texas, this the 13th day of May, 2005.

  
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Samuel B. Kent  
United States District Judge